

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT CHANDLER, AS	)	Case No. 11-03831 SC
REPRESENTATIVE OF THE ESTATE OF	)	
ROSEMARY S. CHANDLER,	)	<u>ORDER</u>
individually and on behalf of	)	
all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
WELLS FARGO BANK, N.A., and	)	
FEDERAL NATIONAL MORTGAGE	)	
ASSOCIATION a/k/a FANNIE MAE,	)	
	)	
Defendants.	)	

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Plaintiff Robert Chandler ("Plaintiff") filed his complaint in this matter on August 3, 2011. ECF No. 1. ("Compl."). On October 4, 2011, Defendants Federal National Mortgage Association and Wells Fargo Bank, N.A. (collectively, "Defendants") moved to dismiss. ECF No. 25 ("Mot."). The motion was fully briefed and scheduled for a hearing on January 13, 2012. ECF Nos. 29, 33. The Court deferred ruling on the Motion pending the outcome of the parties' mediation efforts. ECF No. 45.

The parties recently filed a joint case management statement, indicating that they have been unable to reach agreement on some key terms. ECF No. 57. Both parties now agree that litigation

1 should resume. Id. Plaintiff proposes that he be permitted until  
2 July 18, 2013 to move for leave to file an amended complaint so  
3 that he can provide additional allegations concerning the two years  
4 since the original complaint. Id. Defendants submit that, absent  
5 a showing that the proposed amendments will cure the purported  
6 pleading defects, the Court should consider the motion to dismiss  
7 before entertaining a motion for leave to amend.

8 The Court finds that the most efficient solution is to  
9 consider Plaintiff's Rule 15 motion first. The proposed amended  
10 complaint may cure some of the deficiencies identified by  
11 Defendants' motion to dismiss. Further, as the Court is generally  
12 required to grant leave to amend to cure pleading deficiencies,  
13 allowing Plaintiff to amend now may obviate the need to adjudicate  
14 multiple motions to dismiss.

15 Plaintiff shall file a Rule 15 motion in accordance with Civil  
16 Local Rule 7 within twenty-one (21) days of the signature date of  
17 this Order. Plaintiff's proposed amended complaint should attempt  
18 to cure any legitimate pleading defects identified in Defendants'  
19 pending motion to dismiss. If the Court denies Plaintiff's Rule 15  
20 motion, or Plaintiff fails to file one, the Court will take  
21 Defendants' currently pending motion to dismiss under submission.  
22 The case management conference previously scheduled for June 14,  
23 2013 is hereby VACATED.

24  
25 IT IS SO ORDERED.

26  
27 Dated: June 12, 2013



28 UNITED STATES DISTRICT JUDGE